

09-Mar-2012

ABF-CAL-LTR-001712

Mr. William S. Casey
California Department of Transportation
333 Burma Road
Oakland, CA 94607

PROJECT: San Francisco Oakland Bay SAS Bridge Superstructure
Caltrans Contract No. 04-0120F4
ABF Job No. 660110

SUBJECT: REVISED COST PROPOSAL USING EICHLEAY FORMULA
NOTICE OF POTENTIAL CLAIM (NOPC) NO. 6

REFERENCE: OREGON IRON WORKS, INC. LETTER SL-2244-00821,
DATED MARCH 2, 2012

Gentlemen:

American Bridge / Fluor Enterprises, Inc., A Joint Venture (ABFJV) is in receipt of its Hinge K Supplier, Oregon Iron Works, Inc.'s (OIW) transmittal no. SL-2244-00821, dated March 2, 2012 regarding Notice of Potential Claim No. 6. This transmittal covers letter no. SL-2244-00069, dated March 2, 2012 (attached). Therein, OIW presents its Revised Delay Claim Cost using the Eichleay Formula as requested by the Department. The Department is requested to review this Claim and respond accordingly.

If you have any questions, please contact our office.

Sincerely,


AMERICAN BRIDGE/FLUOR ENTERPRISES, INC. A JOINT VENTURE

Brian A. Petersen
Project Director

Encl: OIW Transmittal No. SL-2244-00821 (10 pages)

File: 01.07.06, 02.01



OREGON IRON WORKS, INC.

9700 S.E. LAWNFIELD ROAD • CLACKAMAS, OREGON 97015
TELEPHONE (503) 653-6300 • FAX (503) 653-8870

transmittal

TO: **American Bridge/Fluor , J.V.**
375 Burma Rd.
Oakland, CA 94607

TRANSMITTAL NO.: TL -2244-00821

DATE: 3/2/2012

VIA: Email & 2 Day

ATTN: Brandon Yee

PROJECT NAME: **Hinge K Pipe Beams**
2244

ATTACHED ARE: SL-069 - Revised Cost Proposal

BLUE PRINT	STATUS	DESCRIPTION	REMARKS
1	INFO	<p style="text-align: center;">SUBMITTED FOR YOUR USE:</p> <p>SL-069 - Revised Cost Proposal Revised Notice of Potential Claim No. 6</p>	

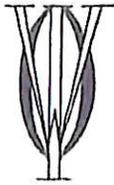
[] Please return one print with your approval or comments noted thereon.

Please acknowledge receipt by signing and returning one (1) copy of this transmittal.

By: _____ Date: _____

OREGON IRON WORKS, INC

For Bill Pender / Project Manager



OREGON IRON WORKS, INC.

9700 S.E. LAWNFIELD ROAD • CLACKAMAS, OREGON 97015
TELEPHONE (503) 653-6300 • FAX (503) 653-5870

March 2, 2012

American Bridge/Fluor , J.V.
375 Burma Rd.
Oakland, CA 94607

Reply to: SL-2244-00069

Attention: Brandon Yee

Contract: Hinge K Pipe Beams
Contract No. 04-0120F4

Subject: Revised Cost Proposal
Revised Notice of Potential Claim No. 6

Dear Mr. Yee:

As requested, Oregon Iron Works Inc. (OIW) submits, herewith, revisions to our previously submitted NOPC No. 6 Cost Proposal. These revisions are in response to recent discussions and correspondence with American Bridge/Fluor Enterprises Inc., a Joint Venture (ABF) and Caltrans. As requested by ABF and Caltrans, we have specifically addressed and included the following:

- **Revised Delay Claim Cost Summary**
- **Credits For Costs Claimed Elsewhere** - Credits have been calculated and applied for overhead costs included in the Company's claim for hourly and salaried labor (previously included in Exhibit A and Exhibit B of original claim document) which occurred during the period of delay and, consequently, are also recovered using the Modified Eichleay Formula. The Company's claim for hourly labor related only to the increase in overhead costs, so the credit is minimal. Full credit for salaried labor overhead is given for hours incurred during the period of delay.
- **Revised "Material Cost Increases"** - (ref. Exhibit C from original claim document). Includes backup documentation for additional trucking (cartage) costs – The enclosed spreadsheet lists all actual cartage invoices related to the project (ref OIW cost code 19.09). We have compared these actual costs to the cartage amount (\$16,537) included in the original estimate (see "*Bid Documentation For Escrow*" documents).

- **Modified Eichleay Formula Computation** - In lieu of calculating Home Office Overhead based on idled shop square footage, we have now included a Modified Eichleay Formula as specifically requested by Caltrans. This methodology for this OH calculation now mirrors the E2 Pilecap Claim previously agreed upon and settled in 2006 with Caltrans.
- **Proposed Confidentiality Agreement** – This document will need to be executed by Caltrans prior to forwarding the requested OIW financial documents. However, in lieu of executing the Confidentiality Agreement document, Caltrans may choose to perform an audit at our Clackamas, OR facility. OIW would be agreeable to such an audit.

OIW believes we have addressed all items requested/discussed between the parties and believe that a prompt and fair settlement can now be achieved. Please contact us to arrange this settlement discussion.

Sincerely,
Oregon Iron Works, Inc.



For Bill Pender
Project Manager

OREGON IRON WORKS, INC.
 AMERICAN BRIDGE/FLUOR, J.V
 HINGE K PIPE BEAMS
 DELAY CLAIM - Summary

	AMOUNT	LESS: Credits	CLAIM
HOURLY LABOR	\$184,716	(681)	\$184,035
SALARIED LABOR	215,658	(17,401)	198,257
subTOTAL	400,374	(18,082)	382,292
MATERIAL COSTS			39,964
subTOTAL			422,256
SG&A [a]		6.3%	26,518
FEE		10%	44,877
subTOTAL			493,651
Home Office Overhead - Modified Eichleay Formula			630,812
TOTAL DELAY CLAIM			\$1,124,462

[a] SG&A rate is composite average rate. Actual FAR based SG&A for prior years shown below

Year ended December 31, 2009	9.49%
Year ended December 31, 2008	5.30%
Year ended December 31, 2007	4.87%
Year ended December 31, 2006	5.46%

OREGON IRON WORKS, INC.
AMERICAN BRIDGE/FLUOR, J.V
HINGE K PIPE BEAMS
DELAY CLAIM - Credit for Costs Claimed Elsewhere

		PERIOD 1	PERIOD 2	
	<i>From</i>	<i>2/13/2007</i>	<i>9/1/2007</i>	
	<i>To</i>	<i>8/31/2007</i>	<i>1/29/2008</i>	
DMH's Claimed During Delay Period		398	528	
Change in Overhead Rate Claimed (calculated below)		\$	1.29	CREDIT
		-	681	\$ 681.12

		PERIOD 1	PERIOD 2	
	<i>From</i>	<i>2/13/2007</i>	<i>1/1/2008</i>	
	<i>To</i>	<i>12/31/2007</i>	<i>1/31/2008</i>	
Overhead Rate		\$ 22.68	\$ 23.97	
DMH's Claimed During Delay Period		662	99	CREDIT
Additional Fixed Overhead Costs Incurred during Delay Per	\$	15,023.46	\$ 2,377.34	\$ 17,400.80

FAR Adjusted Overhead Rates (per claim)	\$	22.68	\$	23.97
Change in Overhead Rates ->	\$		\$	1.29

OREGON IRON WORKS, INC.
 AMERICAN BRIDGE/FLUOR, J.V
 HINGE K PIPE BEAMS
 EXHIBIT C: Material Cost Increases

VENDOR	Invoice	Amount
OUTSIDE MATERIAL FORMING (ref: detail sheet)		31,200.00
OUTSIDE MACHINING		-
TRUCKING		
DHL Global Forwarding	PDX007349100	\$ 474.77
Emerald Rose Transport LLC	510	78.90
Emerald Rose Transport LLC	512	84.03
Emerald Rose Transport LLC	515	406.81
Emerald Rose Transport LLC	516	77.53
Emerald Rose Transport LLC	518	138.20
Emerald Rose Transport LLC	522	68.09
Emerald Rose Transport LLC	526	87.20
Emerald Rose Transport LLC	527	80.34
Emerald Rose Transport LLC	529	91.55
Emerald Rose Transport LLC	545	168.27
Emerald Rose Transport LLC	630	262.50
Emerald Rose Transport LLC	639	228.00
Emerald Rose Transport LLC	656	112.50
Emerald Rose Transport LLC	658	337.50
Emerald Rose Transport LLC	667	75.00
Emerald Rose Transport LLC	670	112.50
Gresham Transfer Inc.	02-920990-01	712.00
Gresham Transfer Inc.	2-858191-01	460.00
Gresham Transfer Inc.	2-861913-01	640.00
Gresham Transfer Inc.	2-863457-01	640.00
Gresham Transfer Inc.	2-874950-01	380.00
Gresham Transfer Inc.	2-875738-01	960.00
Gresham Transfer Inc.	2-876926-01	570.00
Gresham Transfer Inc.	2-877259-01	380.00
Gresham Transfer Inc.	2-877787-01	570.00
Gresham Transfer Inc.	2-878006-01	760.00
Gresham Transfer Inc.	2-879996-01	760.00
Gresham Transfer Inc.	2-882187-01	640.00
Gresham Transfer Inc.	2-884183-01	640.00
Gresham Transfer Inc.	2-885179-01	640.00
Gresham Transfer Inc.	2-887735-01	760.00
Gresham Transfer Inc.	2-889114-01	500.00
Gresham Transfer Inc.	2-893304-01	580.00
Gresham Transfer Inc.	2-895317-01	460.00
Gresham Transfer Inc.	2-911372-01	500.00
Gresham Transfer Inc.	2-911479-01	460.00
Gresham Transfer Inc.	2-932058-01	896.00
Gresham Transfer Inc.	2-933303-01	896.00
Gresham Transfer Inc.	2-934611-01	560.00
Gresham Transfer Inc.	2-939239-01	3,400.00
Morgan Machinery Moving	5576	1,551.00
Morgan Machinery Moving	5662	1,551.00
Morgan Machinery Moving	6061	1,551.00
Grand Total		25,300.69
LESS: Cartage per Bid Documentation for Escrow		16,537.00
		8,763.69
		39,963.69

Hinge K Delay Claim
 NOPC No. 6
 Exhibit C – Addendum -1

Outside Material Forming:

Contractor: American Tank and Fabrication

Supporting Documents:

Purchase Order:	Scope of supply	Amount of PO	Actual Cost
N/A	Original Quote from American Tank and Fabrication	\$ 76,800	
2244-00008	Original purchase order to form 16 cylinders from OIW supplied material and shop drawings	\$ 76,800	
	Purchase order reduced to quantity of 14 each cylinders and line item 2 added for wheelabrating 14 plates to satisfy Caltrans added Die Penetrant testing requirement covered under purchase order 2244-00027	\$ 67,200	\$ 67,200
2244-00008 Rev 3		\$ 15,400	\$ 15,400
2244-00017	This purchase generated to form 2 of the 16 original cylinders to satisfy Caltrans that cylinders could be formed without any damage to base metal	\$ 15,600	\$ 15,600
2244-00027	Purchase order to perform added Die Penetrant testing per Caltrans directive to assure flat plates were acceptable prior to forming into cylinders – no rejectable defects were found in any of the plates.	\$ 9,800	\$ 9,800
		Total New Cost	\$ 108,000
		Less Original Value	<\$ 76,800>
		Total Added Cost	\$ 31,200

*** See attached Original Quote and associated Purchase Orders

OREGON IRON WORKS, INC.
 AMERICA EICHLEAY FORMULA
 HINGE K PIPE BEAMS
 DELAY CLAIM - Modified Eichleay Formula

MODIFIED EICHLEAY FORMULA

Contract Billings	X	Total Company overhead	=	Overhead Apillocable
Total Billings for		During Orig Contract Period		to contract
Orig Contract Period		Orig Contract Period		to contract

\$5,083,411	X	\$42,338,849	=	\$1,290,460
\$199,591,308				

Allocable Overhead	=	Overhead Allocable	X	Days of Owner	=	Home Office Overhead
Orig Days of		to Contract per Day		Caused Delay		Owed
Contract Performance		Contract Performance		Contract Performance		Contract Performance

\$1,290,460	=	\$1,802	X	350	=	\$630,812
716						

OVERHEAD (Indirect and SG&A) during Contract Period:

	Indirect Costs	SG&A	Total
YE2006			
LESS YTD June 2006	16,089,849	4,881,822	20,971,671
LESS Credit for 1/2 month in J	(6,960,120)	(1,816,928)	(8,777,048)
EQUALS: July 15 - Dec 2006	(580,010)	(151,411)	(731,421)
	8,549,719	2,913,483	11,463,202
YE2007			
YTD June 2008	16,468,264	4,715,837	21,184,101
	7,666,800	2,024,746	9,691,546
	32,684,783	9,654,066	42,338,849

OREGON IRON WORKS, INC
CONFIDENTIALITY & NON-DISCLOSURE AGREEMENT
("Agreement")

BETWEEN: Oregon Iron Works, Inc., an Oregon corporation ("OIW")
AND: California Department of Transportation ("CALTRANS")
DATED: _____ ("Effective Date")

RECITALS

- A. OIW and CALTRANS are sometimes referred to in this Agreement as a "Party" or the "Parties."
- B. OIW has invested considerable time and money developing the Confidential Information (as defined below).
- C. OIW wishes to share Confidential Information with CALTRANS that includes labor cost and estimating information, for purposes of settling change orders that relate to the Hinge K pipe beam tubular work, Contract No. 04-0120F4 (the "Project"). It would be detrimental for CALTRANS to use or disclose the confidential or proprietary information obtained during the relationship outside of the terms of this Agreement.
- D. In consideration for the mutual covenants set forth in this Agreement, and for other good and valuable consideration, the Parties agree as follows:

AGREEMENT

1. Definitions:

1.1 Confidential Information. "Confidential Information" means bid estimates and salaried labor calculations related to the Project. Confidential Information includes such information no matter how disclosed, including, without limitation, orally, in writing or electronically.

2. Use of Confidential Information. CALTRANS shall use the same degree of care to protect the disclosure of the OIW's Confidential Information that it uses to protect the disclosure of its own Confidential Information, but no less than reasonable care. CALTRANS agrees it: (a) will not use the Confidential Information for any purpose except for the Project; (b) will not copy, modify or adapt the Confidential Information or any portion thereof except as absolutely necessary for the Project; (c) will limit its disclosure of Confidential Information to personnel within its own organization with a need to know; and (d) will ensure that all employees within its organization that receive Confidential Information are aware of the nature of the Confidential Information and their obligations with respect to the Confidential Information.

3. Ownership of Confidential Information. OIW has the sole and exclusive ownership of the Confidential Information. Nothing in this Agreement creates a licensor-licensee, partnership, joint venture, employer-employee, principal-agent or other relationship between the Parties.

4. Remedies, Injunctive Relief. If CALTRANS breaches, or threatens to breach this Agreement, OIW has the right to (a) specific performance, including an immediate temporary restraining order (without the requirement of a bond), or a preliminary injunction enforcing this Agreement; (b) a judgment for damages caused by CALTRANS's breach; (c) any other remedies provided by law; and (d) OIW's attorney's fees and costs associated with enforcing this Agreement.

5. Return of Confidential Information. Upon OIW's request, CALTRANS shall return to OIW, or destroy, all Confidential Information, in whatever form including, without limitation, all documents, data and other tangible and intangible media containing Confidential Information. Upon OIW's request, CALTRANS shall certify in writing that the requested action has been taken.

6. Public Records Disclosure. The Parties understand and agree that the Confidential Information is exempt from public records disclosure as trade secret and/or proprietary information, and the disclosure of the Confidential Information to the public would cause irreparable harm to OIW. In the event the Confidential Information is requested through a public records request, CALTRANS will immediately notify OIW of such request and provide OIW with the opportunity to object to and/or file for injunctive or other relief to prevent the disclosure of the Confidential Information.

7. Severability/Modification/Enforcement. No waiver by OIW, whether express or implied, of any breach of this Agreement shall be construed as a waiver of any subsequent breach of that term, condition, or obligation. If any part of this Agreement is determined to be unenforceable, the remaining provisions of this Agreement will remain fully enforceable.

8. Binding Agreement/Duration. The rights and obligations set forth in this Agreement shall benefit and be binding upon the parties and their respective representatives, successors and assigns. The obligations set forth in this Agreement will continue beyond the term of the Project for as long as CALTRANS possesses Confidential Information.

9. Authorization. Each signator, by affixing his or her signature hereto, personally certifies that he or she is authorized to do so by the Articles of Incorporation, Bylaws, and/or Board of Directors, or other governing body of the entity for which he or she is executing this Agreement, and that his or her signature shall cause this Agreement to be binding upon such entity.

10. Counterparts. This Agreement may be executed in one or more counterparts by separate signature, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, binding on all parties hereto, even though all parties are not signatories to the original or to the same counterpart.

11. Governing Law. This Agreement shall be construed in accordance with, and governed for all purposes by, the laws of the State of Oregon.

OIW

CALTRANS

Oregon Iron Works, Inc.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____